

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

Incentive Auction Task Force and Media)	
Bureau Seek Comment on Post-Incentive)	MB Docket No. 16-306
Auction Transition Scheduling Plan)	
)	GN Docket No. 12-268
)	
)	

COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Steven K. Berry
President & CEO

Rebecca Murphy Thompson
EVP & General Counsel

Courtney Neville
Policy Counsel

COMPETITIVE CARRIERS ASSOCIATION
805 15th Street NW, Suite 401
Washington, DC 20005
(202) 449-9866
www.ccamobile.org

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COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

Competitive Carriers Association (“CCA”)¹ submits these comments in response to the Public Notice (“Notice”)² in the above-captioned proceedings, in which the Incentive Auction Task Force (“IATF”) and Media Bureau (“Bureau”) seek comment on a phased transition schedule (“Transition Plan” or “Plan”) for the 600 MHz incentive auction. CCA supports the Bureau’s four important goals of: (1) clearing the 600 MHz band as quickly as possible; (2) minimizing the number of times a designated market area (“DMA”) must rescan; (3) minimizing the number of linked-stations; and (4) minimizing the difference between the number of stations in the largest transition phase and the smallest transition phase.

I. INTRODUCTION.

CCA applauds the IATF and Bureau for proposing a regional transition approach that concludes within the statutorily-driven 39 months. This Plan, which helps to complete the final

¹ CCA is the leading association for competitive wireless providers and stakeholders across the United States. CCA’s membership includes nearly 100 competitive wireless providers ranging from small, rural carriers serving fewer than 5,000 subscribers, to regional and national providers serving millions of customers. CCA also represents approximately 200 associate members consisting of small businesses, vendors, and suppliers that provide products and services throughout the mobile communications supply chain.

² *Incentive Auction Task Force and Media Bureau Seek Comment on Post-Incentive Auction Transition Schedule*, MB Docket No. 16-306, GN Docket No. 12-268, Public Notice, DA 16-1095, ¶ 2 (rel. Sept. 30, 2016) (“Notice”).

step in the broadcast incentive auction process, is extremely important to various relevant parties. Notably, the incentive auction was developed to effectively repurpose underutilized spectrum to meet the increasing needs of wireless carriers, satisfy the demands of American consumers, and promote economic growth. As the Federal Communications Commission (“FCC” or “Commission”) has recognized, “spectrum is a critical input in the provision of mobile wireless services and affects if and when existing service providers and potential entrants will be able to expand capacity or deploy networks.”³ Furthermore, low-band or “beachfront” spectrum like that in the 600 MHz band “has certain propagation advantages for network deployment over long distances, while also reaching deep into buildings and urban canyons.”⁴ Many carriers, especially competitive carriers, need immediate access to low-band spectrum to expand coverage and meet consumers’ growing needs. The incentive auction is one of the only remaining opportunities at this time (other than secondary market transactions) for wireless licensees to acquire such spectrum. Accordingly, winning auction bidders should be afforded access to this spectrum as quickly and efficiently as possible.

While CCA supports the Transition Plan laid out by the Bureau, there are a number of additional actions the Bureau can take to ensure that the 600 MHz band is cleared in an expeditious manner. First, the Bureau should continue to develop a set, yet agile schedule that will provide certainty and stability to participating parties. Likewise, the Bureau must take concrete actions that will prioritize the clearing of the 600 MHz band so that wireless carriers may utilize the spectrum as it becomes available. Finally, in an effort to maximize the benefits

³ *Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Mobile Wireless, Including Commercial Mobile Services*, Nineteenth Report, DA 16-1061, ¶ 49 (2016) (“*Nineteenth Mobile Competition Report*”).

⁴ *Id.* ¶ 50.

of clearing the 600 MHz band, the Bureau should ensure that broadcasters remain on schedule in accordance with construction timelines and phase completion dates.

II. CCA CONTINUES TO SUPPORT A 39-MONTH POST-AUCTION TRANSITION PERIOD.

CCA reiterates its long-standing support for a 39-month timeframe for broadcaster relocation.⁵ CCA is pleased that the Bureau's Transition Plan is appropriately formatted to adhere to this period, particularly when seeking to reassign stations to post-auction channel assignments.⁶ As emphasized throughout CCA's advocacy in this proceeding, unnecessary delays that prolong the 39-month transition period "threaten to upend [the] public interest benefits"⁷ associated with the auction, including utilizing much needed spectrum to meet consumers' growing mobile demands for upgraded service. Indeed, "increasing consumer

⁵ See *Ex Parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268 (filed Feb. 10, 2016); See also *Ex Parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268 (filed May 20, 2016); *Ex Parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268 (filed Apr. 14, 2016); *Ex Parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268 (filed Mar. 22, 2016); *Ex Parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268 (filed Dec. 22, 2015); *Ex Parte* Letter from CCA Non-Nationwide Carrier CEOs to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268 (filed May 5, 2015); *Ex Parte* Letter from Steve Sharkey, Vice President, Government Affairs, T-Mobile USA, Inc. to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268 (filed Feb. 18, 2016).

⁶ See *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, GN Docket No. 12-268, Report and Order, 29 FCC Rcd 6567, 6796-802, ¶ 559-73 (2014) ("*Incentive Auction Report and Order*") (establishing a 39-month post-auction transition period for broadcasters that are assigned new channels in the repacking process, which includes a three-month period during which broadcasters will complete and file their construction permit applications followed by a 36-month period consisting of varied construction deadlines), *affirmed*, *Nat'l Ass'n of Broadcasters v. F.C.C.*, 789 F.3d 165 (D.C. Cir. 2015).

⁷ See *Ex Parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268 (filed Dec. 22, 2015).

demand for mobile broadband is increasing service providers' need for spectrum at an unprecedented rate and this is projected to grow further.”⁸

Moreover, as a result of this 39-month transition period, “broadcasters and suppliers of critical inputs will have had more than seven years to prepare for the introduction of new wireless broadband services contemplated by Congress’s adoption of the landmark Spectrum Act of 2012, which identified the broadcast television bands for auction and relocation.”⁹ The extended lead time before the active transition period will provide “tower construction companies, antenna and transmitter manufacturers and consulting engineers the opportunity to expand capacity, hire additional employees and take other preparatory steps to address the anticipated increase in demand.”¹⁰ The Commission’s transition period therefore strikes a reasonable balance between broadcasters’ desire to efficiently relocate and the pressing need for consumers and businesses to gain access to additional wireless broadband connectivity.

III. CCA SUPPORTS ADOPTING CONSTRAINTS AND OBJECTIVES THAT WILL CLEAR THE 600 MHZ BAND AS SOON AS POSSIBLE.

CCA appreciates the background information provided in the Notice on the constraints and priorities the Bureau will use in evaluating the Phase Assignment and Phase Scheduling tools.¹¹ Ultimately, the Bureau should adopt parameters to facilitate prompt but flexible transition plans, including clearing 600 MHz spectrum. These proposed constraints and

⁸ *Nineteenth Mobile Competition Report* ¶ 49.

⁹ *See Ex Parte* Letter from Rebecca Murphy Thompson, EVP & General Counsel, CCA to Marlene H. Dortch, Secretary, FCC, GN Docket No. 12-268, at 2 (filed Dec. 22, 2015).

¹⁰ *Id.*

¹¹ CCA asks the Bureau to reevaluate its proposal to refrain from publicly “releasing the plans” or otherwise disclosing the “underlying simulations” of the Assignment and Scheduling tools. Wireless carriers and broadcasters alike could benefit from reviewing the FCC’s analysis to better prepare for the transition. In essence, the FCC should consider “showing its work” so that interested parties can engage with the process.

objectives appropriately consider the desire of wireless carriers to use acquired spectrum as soon as possible, as well as the importance of limiting consumer confusion. To that end, CCA offers the following suggestions in response to the Bureau's proposed approach.

a. CCA Supports the Bureau's Proposed Objectives for Transitioning Reassigned Stations in the Post-Auction Period.

CCA generally supports the four stated objectives prioritized by the Phase Assignment Tool. CCA is particularly encouraged that the Bureau has affirmed clearing the 600 MHz band as its top priority,¹² which is consistent with the Commission's expectation that "[m]ost new licensees should have access to 600 MHz spectrum well before [the 39-month transition period]."¹³ Indeed, making additional spectrum available for mobile wireless use has been paramount throughout this entire proceeding and as directed by Congress.

Spectrum is critically important for competitive carriers to effectuate network buildout and satisfy consumers' craving for enhanced services. In addition, bidders will be expected to produce significant payments for spectrum purchased during the auction, and capital invested will be sidelined until the spectrum can be deployed and monetized. This process disproportionately affects smaller businesses that must float capital in the interim between purchasing spectrum during the auction, and deploying these assets.¹⁴ Providing wireless licensees with spectrum as soon as possible will better enable them to recoup their investments and offer innovative services to consumers.

¹² Notice, Appendix A, ¶ 20 at p. 9 (specifically seeking to prioritize "[a]ssign[ing] U.S. stations whose pre-auction channels are in the 600 MHz band to earlier phases in order to clear the 600 MHz band as quickly as possible, while simultaneously assigning all Canadian stations and U.S. stations whose pre-auction channel is in the remaining television bands (U.S. TV-band stations) to later phases, where possible.").

¹³ *Incentive Auction Report and Order* ¶ 11.

¹⁴ See Comments of Competitive Carriers Association, ET Docket No. 16-137, p. 13 (filed May 31, 2016).

b. The Bureau Should Clarify That The Least “Complicated” Stations Will Be Assigned To Earlier Phases.

Constraint #9 dictates that “[n]o station falling into the ‘complicated’ category for purposes of the Phase Scheduling Tool can be assigned to Phase 1.”¹⁵ This constraint is meant to ensure that “complicated” stations receive enough time to effectively transition and may assist in preventing the need for extensions, thus promoting certainty and stability for all parties. Yet, to free up wireless spectrum “as expeditiously as possible,”¹⁶ the Bureau also should explicitly clarify that the *least* “complicated” stations will be assigned to earlier transition phases.

Applying this proposal as an additional constraint would free up spectrum more quickly in rural areas, where it is less likely that stations are part of complicated “daisy chains.”¹⁷ Indeed, as the Commission has recognized, networks in rural and remote areas are in dire need of spectrum, especially when compared to their urban counterparts.¹⁸ Assigning stations in these areas to earlier phases will better enable fast and efficient transitions for those stations that are able to do so, and – coupled with the Bureau’s objective to clear the 600 MHz band first – will allow wireless carriers to utilize needed spectrum to offer new innovative services.

¹⁵ Notice, Appendix A, ¶20 at p. 9.

¹⁶ Notice ¶ 2 (rel. Sept. 30, 2016) *citing Incentive Auction Report and Order*, 29 FCC Rcd 6567, ¶ 563.

¹⁷ *Ex Parte* Letter & Presentation from Steve Sharkey, Vice President, Government Affairs, T-Mobile USA, Inc. to Marlene H. Dortch, Secretary, FCC, GN Docket Nos. 12-268 & 14-28, ET Docket No. 15-105, WT Docket No. 10-112 (filed Apr. 22, 2016).

¹⁸ *Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act*, 2016 Broadband Progress Report, 31 FCC Rcd. 699, 710 ¶ 83 (2016) (finding that “in rural areas, 1.5 million (3 percent) of Americans are without access to LTE services, and 52.2 million (87 percent) of Americans are without access to LTE services with a minimum advertised speed of 10 Mbps/1 Mbps. In contrast, in urban areas, the estimates are, respectively, 163,000 (0 percent) and 119.3 million (45 percent)”).

Likewise, while the Bureau should strive to adhere to the 39-month transition period, it should work with stakeholders to ensure sufficient flexibility is afforded when necessary. As described above, allowing stations to move forward when ready, potentially out of order with the schedule produced by the Phase Scheduling Tool, will remove unnecessary impediments and ensure timely reassignment of stations that may be prepared to move sooner than anticipated.

c. All Stations Within a DMA Should Be Assigned to No More Than Two Different *Adjacent* Transition Phases.

CCA continues to support a transition conducted on a regional basis, and urges the Bureau to take steps to provide further certainty to wireless carriers, particularly rural and regional carriers with services in concentrated areas. One opportunity is the Plan's DMA/transition phase correlation which is discussed in Constraint #5. This constraint proposes that all stations within a DMA be assigned to no more than two different transition phases.¹⁹ While CCA supports this proposal, it suggests the Bureau go one step further and require that these two phases occur back-to-back (i.e. Phase 1 and Phase 2 be assigned to stations within one DMA, rather than Phase 1 and Phase 7 be assigned to stations within one DMA). Doing so will provide greater flexibility and certainty for regional and rural carriers, and will assist in clearing DMAs in a more efficient fashion.

d. The Bureau Should Permit Early Equipment Testing & Use of Auxiliary Facilities When Feasible.

The Bureau explains that equipment testing on post-auction channels will be confined to "testing periods," which will begin on the day after the end of the preceding phase.²⁰ CCA appreciates the Bureau's attention to a systematic testing regime. While understanding the need

¹⁹ Notice, Appendix A, ¶ 20 at p. 8.

²⁰ See *id.*, Appendix A, ¶ 2.

to reduce undue interference between stations during these periods,²¹ CCA encourages the Bureau to afford as much flexibility as possible to stations able to test equipment prior to commencing operations on their new assigned channel. As the Notice recognizes, stations may agree to “operate at lower power or accept increased interference for short periods of time while the stations involved are performing tests.”²² CCA therefore recommends the Bureau allow broadcasters to voluntarily begin early testing when feasible, particularly when broadcasters can certify that this testing will not result in additional undue interference. Specifically, the Bureau should foster a post-auction transition environment in which stakeholders can enter into voluntary agreements to minimize interference, while allowing stations to transmit under reduced power among other affected broadcasters. This approach would ensure scarce resources are used when needed, and in the most expeditious manner to the benefit of broadcasters and wireless providers alike.

Likewise, the Bureau should encourage use of auxiliary facilities and equipment when feasible. As the Notice explains, the record in this proceeding reflects that service and equipment providers are “starting to plan for the transition and to take steps to meet increased demand,”²³ and notes that many repacked stations will require an auxiliary antenna during reassignment.²⁴ While recognizing that a station cannot cause more than two percent interference to another station during the transition, CCA recommends the Bureau allow stakeholders to share equipment and facilities, when reasonable, to expeditiously clear the spectrum band.

²¹ See *id.* ¶ 6.

²² See *id.* ¶ 1.

²³ Notice. ¶ 3.

²⁴ See *id.*, Appendix A, ¶ 50.

e. The Bureau Should Permit Broadcasters to Relocate to a Temporary Channel When Appropriate.

While the Bureau does not propose to assign stations to temporary channels in the current Transition Plan, the Notice seeks comment on whether to employ this approach.²⁵ CCA recommends the Bureau further explore this option. As referenced in the Notice, the Bureau should allow use of temporary channels when station reassignments result in complex dependencies, stations are close in proximity, and interference is limited. Specifically, the Transition Plan should not preclude stations that are able to clear earlier than their assigned phase from accessing and using a temporary channel to facilitate this transition from the 600 MHz band. When appropriate, allowing broadcasters to voluntarily relocate to temporary channels, provided that they do not delay the 39-month transition period, could present another avenue to expeditiously clear the 600 MHz band with relatively little interference.

IV. EXTENSIONS OF TIME SHOULD ONLY BE GRANTED IN UNIQUE CIRCUMSTANCES.

The Notice anticipates that “some stations may request extensions of their construction deadlines and may seek authority to continue operating on their pre-auction channel after their phase completion date.”²⁶ In reviewing these requests, the Bureau should consider the impact that an extension may have on wireless carriers seeking to utilize the 600 MHz band, as it could delay the availability of much-needed spectrum and deployment of mobile service.²⁷ For instance, to prepare for deployment wireless carriers may prioritize certain testing or purchase equipment to meet a deployment date based on the phase completion date; changing these dates removes the certainty that the Bureau strives to maintain through adoption of a transition plan.

²⁵ Notice ¶ 20.

²⁶ *Id.* ¶ 27.

²⁷ *Cf. id.* ¶ 26.

Indeed, as the Bureau explains, there is a “[n]eed for a schedule that ‘provide[s] certainty to wireless providers and [is] completed as expeditiously as possible.’”²⁸ CCA wholeheartedly agrees. It is important to maintain agility along with certainty of phase completion dates, as wireless providers will be engaging in their own planning activities in reliance on these timelines.

Nevertheless, CCA also recognizes that there may be unique circumstances to warrant an extension of a construction deadline for a relocating broadcaster. CCA therefore supports an enhanced waiver standard for those broadcasters seeking extensions. The Bureau suggests that requests for construction deadlines will be treated “favorably” if they are “otherwise compliant with rules and have little or no impact on the phase assignments or transition schedule.”²⁹ In addition to this standard, the Bureau should explicitly clarify that a broadcaster’s request for extension of a construction deadline must meet the FCC’s waiver standard, *and* demonstrate that an extension would have *little or no impact on the phase assignments or transition schedule*.³⁰ Additionally, the Bureau should consider whether a waiver request is directly related to the safety of crews and personnel relocating or constructing new towers. By doing so, the Bureau will strike the necessary balance for a successful transition.

²⁸ *Id.* ¶ 2, citing *Incentive Auction Report and Order*, 29 FCC Rcd 6567, ¶ 563.

²⁹ *Id.* ¶ 27.

³⁰ *See id.*

V. CCA SUPPORTS RELAXATION OF THE COMMISSION’S PROHIBITED COMMUNICATIONS RULES AS RELATED TO RELOCATION MATTERS.

The Bureau explains that the Commission’s prohibited communications rules “should not preclude any party from addressing relevant issues regarding the post-auction transition.”³¹ CCA agrees with the Bureau’s analysis, and applauds its consideration to allow tailored conversations between broadcasters and wireless carriers once the forward auction has satisfied the final stage rule and stakeholders plan to relocate. While the Bureau has established sound policies and objectives for facilitating the transition, other factors as noted above can alleviate barriers to reassignment. For example, broadcasters and wireless operators should have the ability to freely coordinate with tower crews and equipment manufacturers – without fear of punishment or violation of regulatory barriers – to facilitate a fluid exchange of equipment information, timelines, and test schedules. As the Notice makes clear, the Bureau will release an *Auction Closing and Channel Reassignment Public Notice* once the forward auction concludes, which will announce the post-auction channel assignment and technical parameters of stations eligible for protection in the repacking process that will remain on the air after the auction.³² Despite this information, it is unclear how much time will pass between satisfaction of the final stage rule and release of the *Auction Closing and Channel Reassignment Public Notice*. A significant delay could impair stakeholders’ abilities to communicate about post-auction issues once the final stage rule is satisfied. The Bureau should work with the Commission to relax these prohibited communications rules regarding post-auction relocation matters, to avoid unnecessarily

³¹ See *id.* ¶ 31.

³² *Id.* ¶ 8.

constraining the ability of broadcasters and wireless providers from initiating discussions necessary to move forward with station transitions as soon as possible.

VI. CONCLUSION.

Transparency and certainty are key to facilitating an expeditious but agile post-auction transition, for both broadcasters and wireless licensees. Accordingly, CCA respectfully requests that the Bureau consider the above-proposed recommendations to ensure that the 600 MHz band is expeditiously cleared for wireless use on a predetermined schedule.

Respectfully submitted,

/s/ Rebecca Murphy Thompson
Steven K. Berry
Rebecca Murphy Thompson
Courtney Neville
COMPETITIVE CARRIERS ASSOCIATION
805 15th Street NW, Suite 401
Washington, DC 20005

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